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RUESDO RUTAMA RUQMDI RUEHMO RUESMO RUFHGV RUEHCR RUMJMA
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RUESSD RUESNA RUESAL RUESJO RUQMNS RUEHCR RUTADE RUFHYDJ
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TO ALL DIPLOMATIC POSTS IMMEDIATE

BT

C O N F I D E N T I A L

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E.O. 11652:

TAGS: FLOS

SUBJECT: SECRETARY'S SPEECH OF APRIL 8 ON LOS

FOR AMBASSADOR

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NK 51476

1. YOU WILL BE RECEIVING BY SEPTEL FULL TEXT OF IMPORTANT ADDRESS BEING DELIVERED TODAY BY SECRETARY IN NEW YORK ON LAW OF THE SEA (LOS). THE ADDRESS OCCURS APPROXIMATELY MID-WAY THROUGH THE CURRENT SESSION OF THE LOS CONFERENCE.

2. YOU ARE REQUESTED TO PROVIDE FOREIGN MINISTER AND/OR OTHER APPROPRIATE HIGH RANKING OFFICIALS WITH TEXT OF SPEECH. YOU SHOULD DRAW ON TALKING POINTS BELOW IN YOUR DISCUSSIONS, EMPHASIZING IMPORTANCE WE ATTACH TO THESE NEGOTIATIONS WHICH UNDERSCORED BY SECRETARY'S PERSONAL PARTICIPATION THROUGH VISIT TO NEW YORK AND MAJOR PACKAGE OF PROPOSALS ON SEABEDS IN HIS SPEECH DESIGNED TO MEET LEGITIMATE CONCERNS OF ALL PARTICIPATING NATIONS AND, THEREBY, TO PROVIDE REQUIRED STIMULUS TO CONFERENCE TO MOVE TOWARDS SUCCESSFUL CONCLUSION.

3. SPECIFIC ADDITIONAL GUIDANCE FOR CERTAIN POSTS FOLLOWS TALKING POINTS.

-- U.S. POLICY IN RECENT YEARS HAS CONSISTENTLY EMPHASIZED THAT THE PRINCIPAL PROBLEMS WHICH ALL NATIONS FACE TODAY ARE TRULY GLOBAL IN NATURE. THEY TRANSCEND BOUNDARIES AND EMBRACE ISSUES OF PEACE AND SECURITY AS WELL AS ECONOMIC PROSPERITY. THEY CAN BE DEALT WITH BY STRUGGLE OR BY A COMMON RECOGNITION OF OUR INTERDEPENDENCE AND A COMMON WILL TO ACT OUT OF A SENSE OF COMMUNITY AND MUTUAL NEED.

-- THE PROBLEM OF THE OCEANS WHICH COVER 70 PERCENT OF THE EARTH'S SURFACE IS A DRAMATIC EXAMPLE OF THIS CONDITION. HOW MANKIND WILL USE THE SPACES AND RESOURCES OF THE OCEANS INVOLVES PRACTICALLY ALL OF THE ISSUES REFLECTING THE GLOBAL INTERDEPENDENCE OF NATIONS. SINCE 1973 THESE ISSUES HAVE BEEN UNDER NEGOTIATION AT THE THIRD U.N. CONFERENCE ON THE LAW OF THE SEA. TODAY THESE NEGOTIATIONS STAND AT A CRITICAL JUNCTURE. MUCH PROGRESS HAS BEEN ACHIEVED, BUT REMAINING ISSUES THREATEN TO SCUTTLE PAST SUCCESSES. THE U.S. BELIEVES THAT THESE REMAINING ISSUES MUST BE RESOLVED THIS YEAR OR THE WORLD WILL HAVE LOST ITS LAST BEST CHANCE TO ACHIEVE A TREATY IN THIS GEN...

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-- THE THIRD SESSION OF THE CONFERENCE IS CURRENTLY MEETING IN NEW YORK. IT CONSTITUTES ONE OF THE MOST SIGNIFICANT NEGOTIATIONS IN DIPLOMATIC HISTORY. IT IS ALSO AN IMPORTANT ELEMENT OF OUR ONGOING DIALOGUE BETWEEN NORTH AND SOUTH, WHICH IS BEING CONDUCTED IN A VARIETY OF FORA E.G.: 7TH SPECIAL SESSION, CIEC, UNCTAD. IT IS IMPERATIVE THAT THE PRESENT SESSION OR A FINAL SESSION THIS SUMMER BRING TO A SUCCESSFUL CONCLUSION ALL OF THE REMAINING ISSUES STANDING IN THE WAY OF A FINAL TREATY.

TO DEMONSTRATE U.S. DETERMINATION TO BRING THIS ABOUT, SECRETARY KISSINGER DELIVERED A MAJOR ADDRESS APR. 8 IN NEW YORK BEFORE THE FOREIGN POLICY ASSOCIATION ON THE NEGOTIATIONS OF THE LAW OF THE SEA CONFERENCE. HE STRESSES THE CENTRAL IMPORTANCE OF THE OCEANS AND THE LOS NEGOTIATIONS AS A CRITICAL TEST OF GLOBAL INTERDEPENDENCE AND THE WILL OF NATIONS TO COOPERATE TO ACHIEVE COMMON GOALS. HE REVIEWS THE STATUS OF THE CURRENT NEGOTIATIONS AND SET FORTH NEW PROPOSALS BY THE U.S. TO RESOLVE THE REMAINING ISSUES. THE HIGHLIGHT OF THE CENTRAL POINTS OF HIS SPEECH ARE AS FOLLOWS.

WHAT HAS BEEN AGREED

THE SECRETARY NOTES THAT PROGRESS TO DATE IN THE LAW OF THE SEA NEGOTIATIONS INCLUDE THE FOLLOWING AREAS OF AGREEMENT:

-- WIDESPREAD AGREEMENT ON THE MAXIMUM BREADTH OF THE TERRITORIAL SEA -- THE AREA WHERE A NATION EXERCISES FULL SOVEREIGNTY TO 12 MILES;

-- SUBSTANTIAL AGREEMENT ON GUARANTEED UNIMPEDED TRANSIT THROUGH AND OVER STRAITS USED FOR INTERNATIONAL NAVIGATION, INCLUDING THOSE MOST VITAL TO INTERNATIONAL COMMERCE AND GLOBAL SECURITY SUCH AS THE STRAITS OF GIBRALTAR AND MALACCA;

-- WIDESPREAD AGREEMENT ON A 200 MILE ECONOMIC ZONE IN WHICH COASTAL STATES CONTROL FISHERIES, MINERAL AND OTHER RESOURCE ACTIVITIES BUT IN WHICH FREEDOM OF NAVIGATION AND OTHER ASPECTS OF THE INTERNATIONAL COMMUNITY ARE MAINTAINED. THE CONFERENCE HAS BEFORE IT A REASONABLE

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PROPOSAL FOR AGREEMENT ON RESOURCE JURISDICTION OVER THE CONTINENTAL MARGIN BEYOND 200 MILES, BUT REQUIRING THEM TO SHARE WITH THE INTERNATIONAL COMMUNITY A SPECIFIED PERCENTAGE OF THE VALUE OF MINERAL RESOURCES.

REMAINING ISSUES

THE SECRETARY STRESSES THAT PROGRESS ON THESE ISSUES SUGGEST HOW FAR WE HAVE COME TOWARD A TREATY AND HOW MUCH IS AT STAKE IN RESOLVING OUTSTANDING ISSUES. THREE MAJOR ISSUES REMAIN -- MARINE SCIENCE RESEARCH, A DISPUTE SETTLEMENT MECHANISM, AND THE DEEP SEABED REGIME. LET ME DESCRIBE EACH OF THESE ISSUES AND THEN DISCUSS THE NEW ELEMENTS OF U.S. POLICY SET FORTH BY THE SECRETARY WHICH WE HOPE WILL CONTRIBUTE TO A FINAL RESOLUTION OF THESE ISSUES.

A. MARINE SCIENCE RESEARCH

THE PROBLEM HERE IS HOW TO ENCOURAGE MARINE SCIENTIFIC RESEARCH WHILE PROTECTING THE LEGITIMATE INTERESTS OF COASTAL STATES IN THEIR 200 MILE ECONOMIC ZONES.

THE SECRETARY INDICATES IN HIS SPEECH THAT THE U.S. IS PREPARED TO ACCEPT COASTAL STATE REGULATION OF MARINE SCIENCE RESEARCH WHICH IS DIRECTLY RELATED TO THE EXPLORATION AND EXPLOITATION OF RESOURCES WITHIN THE

ECONOMIC ZONE. BUT THE U.S. ALSO INSISTS THAT THE PRINCIPLE OF FREEDOM FOR MARINE SCIENTIFIC RESEARCH IN GENERAL BE GUARANTEED.

B. DISPUTE SETTLEMENT MECHANISM

WITH A TREATY AS COMPLEX AND COMPREHENSIVE AS THE LAW OF THE SEA TREATY, NO NATION CAN ACCEPT UNILATERAL INTERPRETATION OF THE TREATY'S PROVISIONS.

THUS, THE U.S. HAS PROPOSED THE ESTABLISHMENT OF AN IMPARTIAL DISPUTE SETTLEMENT MECHANISM WHOSE DECISIONS WOULD BE BINDING ON ALL STATES PARTY. SUCH A MECHANISM IS ESSENTIAL TO ASSURE THE PROPER BALANCE BETWEEN THE RIGHTS OF COASTAL STATES AND THE RIGHTS OF ALL OTHER

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STATES.

C. DEEP SEABED REGIME

THE PROBLEMS HERE ARE THREE-FOLD. (1) WHAT WILL BE THE FORMAL POWERS OF THE DECISION-MAKING MACHINERY FOR MANAGING THE DEEP SEABEDS? (2) WHO WILL HAVE ACCESS TO DEEP SEABED RESOURCES AND UNDER WHAT CONDITIONS? (3) WHAT WILL BE DONE TO DEAL WITH ANY POSSIBLE DETRIMENTAL EFFECTS ON LAND-BASED PRODUCERS FROM DEEP SEABED MINING OF MINERALS?

D. WHAT NEEDS TO BE DONE

ON THE PROBLEM OF DECISION-MAKING MACHINERY, THE U.S. RESTATED ITS VIEW THAT SUCH MACHINERY MUST BE BALANCED, EQUITABLE AND ENSURE THAT THE RELATIVE ECONOMIC INTERESTS OF THE COUNTRIES WITH IMPORTANT ACTIVITIES IN THE DEEP SEABEDS BE PROTECTED, EVEN THOUGH THESE COUNTRIES MAY BE A NUMERICAL MINORITY. TO THIS END, THE U.S. CONTINUES TO BELIEVE THAT THE TREATY SHOULD AUTHORIZE THE CREATION OF AN INTERNATIONAL SEABED RESOURCE AUTHORITY COMPRISED OF FOUR PRINCIPAL ORGANS:

- AN ASSEMBLY OF ALL MEMBER STATES TO PROVIDE GENERAL POLICY GUIDANCE;
- A COUNSEL TO SERVE AS AN EXECUTIVE AND MAIN DECISION-
--KING FORUM;
- AKING FORUM;
- A TRIBUNAL TO RESOLVE DISPUTES THROUGH LEGAL PROCESSES;
AND
- A SECRETARIAT FOR DAY-TO-DAY ADMINISTRATION.

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IN ADDITION, THE U.S. PROPOSES THAT THE POWER OF THE AUTHORITY BE CAREFULLY DETAILED SO AS TO PRESERVE ALL THOSE RIGHTS REGARDING USES OF THE SEAS WHICH FALL OUTSIDE THE COMPETENCE OF THE AUTHORITY AND THAT THE COMPOSITION AND STRUCTURE OF THE COUNCIL REFLECT PRODUCER AND

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WITH RESPECT TO THE PROBLEM OF ACCESS TO DEEP SEABED RESOURCES, THE U.S. RECOGNIZES THAT STATES OF LESS ADVANCED TECHNOLOGY MUST SHARE IN THE BENEFITS OF DEEP SEABED EXPLOITATION. BUT THE U.S. CANNOT ACCEPT THE GRANTING OF EXCLUSIVE RIGHTS OF ACCESS TO THESE RESOURCES TO AN INTERNATIONAL AUTHORITY OR THE IMPOSITION OF RESTRICTIONS THAT WOULD EFFECTIVELY DENY ACCESS TO THE FIRMS OF ANY INDIVIDUAL NATION INCLUDING OUR OWN.

-- THE U.S. THEREFORE PROPOSES THAT THE TREATY GUARANTEE NON-DISCRIMINATORY ACCESS FOR STATES AND THEIR NATIONALS TO DEEP SEABED RESOURCES AND WILL ACCEPT THAT AN "ENTERPRISE" BE ESTABLISHED AS PART OF THE INTERNATIONAL SEABED RESOURCE AUTHORITY TO EXPLOIT DEEP SEABED RESOURCES UNDER THE SAME CONDITIONS AS OTHER PRODUCERS.

-- IF THERE IS BROAD AGREEMENT, THE U.S. CAN ACCEPT THE FOLLOWING SYSTEM FOR RESERVING PRIME MINING SITES FOR EXCLUSIVE EXPLOITATION BY THE ENTERPRISE OR DEVELOPING COUNTRIES DIRECTLY: EACH CONTRACTOR WOULD PRESENT TWO MINE SITES, ONE TO BE SELECTED BY THE AUTHORITY FOR USE BY THE CONTRACTOR, THE OTHER TO BE SET ASIDE FOR USE BY THE AUTHORITY ITSELF, OR BY DEVELOPING COUNTRY CONTRACTORS.

-- FINALLY, THE U.S. SUPPORTS A SYSTEM OF REVENUE SHARING FROM ALL MINING ACTIVITIES IN THE DEEP SEABED FOR USE BY THE INTERNATIONAL COMMUNITY, PRIMARILY FOR THE NEEDS OF THE POOREST COUNTRIES.

ON THE PROBLEM OF THE EFFECTS OF DEEP SEABED MINING ON LAND-BASED PRODUCERS, THE SECRETARY PROPOSED SEVERAL NEW ELEMENTS OF U.S. POLICY:

-- FIRST, THE U.S. IS PREPARED TO ACCEPT A TEMPORARY LIMITATION FOR A PERIOD FIXED IN THE TREATY ON PRODUCTION OF SEABED MINERALS TIED TO THE GROWTH OF THE NICKEL MARKET.

-- SECOND, THE U.S. PROPOSES THAT SOME OF THE INTERNATIONAL

REVENUES FROM DEEP SEABED MINING BE USED FOR ADJUSTMENT ASSISTANCE TO LAND-BASED PRODUCERS THAT MAY BE AFFECTED

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BY SEABED PRODUCTION AND THAT THE WORLD BANK, REGIONAL DEVELOPMENT BANKS AND OTHER INTERNATIONAL INSTITUTIONS ASSIST THESE COUNTRIES TO IMPROVE THEIR COMPETITIVENESS OR DIVERSIFY INTO OTHER KINDS OF PRODUCTION IF THEY ARE SERIOUSLY INJURED.

-- THIRD, THE U.S. PROPOSES THAT THE SEABED AUTHORITY HAVE THE RIGHT TO PARTICIPATE IN ANY INTERNATIONAL AGREEMENTS ON SEABED-PRODUCED COMMODITIES IN ACCORDANCE WITH THE AMOUNT OF PRODUCTION FOR WHICH IT IS DIRECTLY RESPONSIBLE. THE U.S. IS ALSO WILLING TO EXAMINE WITH FLEXIBILITY THE DETAILS OF ARRANGEMENTS CONCERNING THE RELATIONSHIPS BETWEEN THE AUTHORITY AND ANY EVENTUAL COMMODITY AGREEMENTS.

CONCLUSION

THE SECRETARY OFFERED THE PACKAGE OF PROPOSALS AS A MEANS OF STIMULATING THE REQUIRED MOMENTUM IN THE CONFERENCE TO ENABLE US TO CONCLUDE A TREATY THIS YEAR. THE CHOICE BEFORE THE INTERNATIONAL COMMUNITY IS BETWEEN ORDER AND ANARCHY, COOPERATION AND CONFLICT. TO EMPHASIZE THE IMPORTANCE WE ATTACH TO THE NEGOTIATIONS, THE PRESIDENT HAS ASKED THE SECRETARY TO LEAD THE U.S. DELEGATION TO THE TENTATIVELY PLANNED NEXT SESSION SO THAT REMAINING ISSUES CAN BE DISCUSSED AT A DECISIVE POLITICAL LEVEL AND AGREEMENT REACHED.

FOR CARACAS. PLEASE ENSURE THAT ANDRAS AGUILAR, CHAIRMAN OF LOS CONFERENCE COMMITTEE II IS GIVEN COPY OF SPEECH. AGUILAR IS EXPECTED TO RETURN TO NEW YORK SHORTLY TO RESUME RESPONSIBILITIES FOR COMMITTEE II. IN DISCUSSING SECRETARY'S STATEMENT, EMBASSY SHOULD STRESS THAT USG HOPES THAT CONFERENCE WILL COMPLETE ITS SUBSTANTIVE WORK THIS YEAR SO THAT LOS TREATY MAY BE SIGNED IN CARACAS EARLY IN 1977.

FOR NAIROBI. FYI, KENYA HAS CONSISTENTLY BEEN AMONG THE MOST EFFECTIVE AND MOST MODERATE AND CONSTRUCTIVE LEADERS IN CONFERENCE WITHIN AFRICAN GROUP. HOWEVER, DURING CURRENT DEBATE ON ECONOMIC ZONE AT NEW YORK SESSION, KENYA HAS OPPOSED US ON ISSUE

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TO US -- I.E., THE LEGAL STATUS OF THE ECONOMIC ZONE ON HIGH SEAS. END FYI. IN DELIVERING TEXT PLEASE EXPRESS APPRECIATION FOR COOPERATION SHOWN OUR DELEGATION. HOWEVER, WE HOPE THAT KENYAN DELEGATION WILL RECONSIDER ITS OPPOSITION TO GIVING ECONOMIC ZONE HIGH SEAS STATUS. THIS IS AN ISSUE OF GREAT IMPORTANCE TO US.

FOR MEXICO. EMBASSY SHOULD NOTE CLOSE COOPERATION BETWEEN OUR DELEGATIONS AND STRESS OUR VIEW THAT IF CONFERENCE IS TO BE SUCCESS IT MUST BE COMPLETED THIS YEAR.

FOR BRASILIA. WE HAVE WORKED CLOSELY WITH BRAZILIAN DELEGATION IN NEGOTIATIONS ON DEEP SEABED. ON MANY ISSUES BRAZILIAN DEL PLAYED A CONSTRUCTIVE ROLE. EXPRESS HOPE THAT WE CAN CONTINUE THE COOPERATION AND ACHIEVE TREATY WHICH MEETS CONCERNS OF BOTH COUNTRIES.

LIMA AND SANTIAGO. YOU MAY WISH TO POINT OUT THAT ONE OF THE NEW ELEMENTS IN PACKAGE PRESENTED TODAY IS MAJOR EFFORT TO DEAL WITH CONCERN OF LDC LAND-BASED PRODUCERS OF METALS MINED FROM DEEP SEABEDS, SUCH AS CHILE AND PERU IN THE CASE OF COPPER.

MOSCOW, PARIS, LONDON, TOKYO. AS MEMBER OF CONFIDENTIAL GROUP OF FIVE, WE HAVE WORKED CLOSELY WITH REPRESENTATIVES ON ALL ISSUES BEFORE THE CONFERENCE. DESPITE SOME DIFFERENCES, THIS COOPERATION HAS BEEN VERY HELPFUL AND HAS CONTRIBUTED TO PROGRESS IN THE NEGOTIATIONS TO ACHIEVE OUR COMMON GOALS.

BONN. PLEASE EXPRESS APPRECIATION FOR VERY HELPFUL ROLE FRG HAS PLAYED IN NEGOTIATION.

JIDDA. NOTE COOPERATION BETWEEN OUR DELEGATIONS, PARTICULARLY ON THE CRITICAL ISSUE OF INTERNATIONAL STRAITS PASSAGE. EXPRESS APPRECIATION FOR CONSTRUCTIVE SAUDI ROLE.

CAIRO. FYI. EGYPT CONTINUES TO OPPOSE US ON ISSUE OF STRAITS. BECAUSE OF ITS INFLUENCE IN ARAB AND AFRICFYI. GROUPS, THE OPPOSITION ESPECIALLY HARMFUL. END FYI. IF EMBASSY HAS NO OBJECTIONS, EXPRESS IMPORTANCE WE

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ATTACH TO SATISFACTORY SETTLEMENT OF STRAITS ISSUE AND
OUR HOPE THAT EGYPT CAN AGREE TO CONCEPT OF UNIMPEDED
TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION
LINKING HIGH SEAS TO HIGH SEAS.

MADRID. FYI. SPAIN HAS RECENTLY INDICATED A SHIFT IN
ITS POSITION ON STRAITS AND SEEMS TO BE MOVING IN
DIRECTION OF US POSITION BUT STILL OPPOSES RIGHT OF OVER-
FLIGHT AND SUBMERGED TRANSIT WHICH ARE ESSENTIAL TO
US. END FYI. EXPRESS GRATIFICATION AT NEW SPANISH
POSITION ON STRAITS BUT STRESS THAT WE COULD NOT ACCEPT
REGIME FOR STRAITS WHICH DID NOT PROVIDE FOR OVERFLIGHT
AND SUBMERGED TRANSIT. THIS IS IMPORTANT NOT ONLY TO
US BUT FOR SECURITY OF EUROPE. SISCO
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